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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,602	10/02/2003	Robert M. Best	493-25-5	8231

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EXAMINER

MOSSER, ROBERT E

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

15

<b>Office Action Summary</b>	<b>Application No.</b> 10/677,602	<b>Applicant(s)</b> BEST, ROBERT M.	
	<b>Examiner</b> Robert Mosser	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 76-173 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 76-173 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/03, 11/03, 4/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

The supplemental IDS received 4-26-04 is presently unavailable however upon request the attorney of record has presented the examiner with an additional copy of the IDS that has been considered in place of the IDS received 4-26-04.

#### *Priority*

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application); the disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

In this present application the included references directed to a "...**3-dimensional** player controlled character...", "**replay** of a prior game sequence", "**preview** of a possible future game sequence", and the mapping of "...**textures** onto said first **polygon** data..." not originally present in the filing of the parent application are held as a non-exhaustive listing of evidence to this point.

### ***Claim Objections***

Claim 80 is objected to because of the following informalities: Line 4 recites "specify a least" and is believe intended to be "specify at least". Appropriate correction is required.

Claim 132 is objected to because of the following informalities: Line 3 recites "oparation" and is believe intended to be "operation". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 76-173 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In this present application the included references directed to at least a "...**3-dimensional player-controlled character...**", "**replay** of a prior game sequence", "**preview** of a possible future game sequence", and the mapping of "...**textures** onto said first **polygon** data..." are not supported by the specification as submitted. While

Art Unit: 3714

there is support in the specification for a 3-dimensional world the features highlighted above are not disclosed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim **81** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims **81** and **116** are unclear regarding the meaning and/or scope of a "variable" with the language "other variables" included in the claim.

Claim **84** is unclear regarding the meaning and/or scope of a "data" with the language "and/or other data" included in the claim.

Claims **88** and **154** are unclear as to what the applicant intends or regards a "partly wireless transmission link to entail" to describe.

Claim **114** is unclear as to what the applicant intends or regards a "near" to describe.

Claim **124** is unclear as to what the applicant intends or regards a "like a human" to describe.

Claims **90**, **147**, **159** are unclear as to what the applicant intends or regards a "substantially the same character" to describe.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **76-91, 94-136, 139-169, 172, and 173** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al (US 6,238,291) in view of Miyamoto et al (US 6,626,760) in further view of Miyamoto et al (US 2002/0165028) herein referred to as 291', 760' and 028' respectively.

Regarding at least claims **76-79, 88, 89, 116-120, 131, 139, 141, 145, 146, 150, 152-154, 162, 172, and 173**, Fujimoto (291') teaches a first game apparatus (100) such as the Nintendo 64 (Col 2:23-30) containing a first processor (11) and a first graphical processor (16) connected to a second separately housed portable game system (400) such as the Nintendo Gameboy (Col 2:23-30) containing a second processor (431), a

second graphics co-processor (433) and a discrete display device (401). Where the first and second devices transfer data (understood to encompass variables, instructions, graphics, ect) required for development of the game via a wireless or wire connection (Col 2:66-3:9 & 3:24-27). The 291' patent teaches the use of displaying separate game related info on a public display screen (600) and the private handheld screen (401) in the game of Mahjong, however the 291' patent is silent regarding the incorporation of 3-dimensional textured polygon characters defined by a plurality of body parts.

In a related application however Miyamoto (028') teaches the ability of the Gameboy advanced portable game system to display a separate 3-dimensional world and character on a portable game LCD screen (ABS) separate from the display of the world on a public or first display device (Fig 9, Para 63 &73). It would have been obvious to one of ordinary skill in the art at the time of invention to replace the Gameboy of 291' with the Gameboy Advance of 028' in order to increase the display abilities of the portable unit threw the addition of color in the newer model.

Any player or non-player image composed of polygons is considered to be composed of a plurality of body parts as so described.

In a related application Miyamoto (760') teaches the use of movable player objects (player character) and a non-player objects as displayed in a 3-dimensional space or simulated world (Col 1:57-65) and composed of a plurality of polygons with associated texture data (Col 7:19-22) and further provides the Nintendo 64 as an example of hardware utilized in the invention (Col 1:19-22).

It would have been obvious to one of ordinary skill in the art of the time of invention to alter apparatus of 291'/028' with the game of the 760' patent and so utilized a 3-dimensional world and objects as shown in figure 12 of 760' and described above in order to provide the player the more immersing experience of a 3-dimensional game on hardware known to be capable of the task.

Regarding at least claim **83**, The graphics co-processor may be understood to be encompassed either in the figure 5, element 16 of 291', or in figure 6, element 22 of 028', or in figure 2, element 123 of 760' and is understood to be capable of rendering 3-dimensional objects as so claimed.

Regarding at least claims **84** and **139**, 291' teaches the transmission of data control signals in a bi-directional data exchange between the home system and a portable system and the displaying of image data by the portable system dependent on the information received from the home system (Col 6:39-65) as so claimed. Wherein the use of the home systems' and portable systems processors in this operation is considered implicitly required for an operational transfer of data.

Regarding at least claims **85**, **87**, **90**, **91**, **147-149**, and **163** the enlargement of a polygon data portion of a primary display is shown on a second discrete display device in figures 20 and 21 of 028'. It would have been obvious to one of ordinary skill in the art at the time of invention to incorporated the player view feature shown in 028' into the



Art Unit: 3714

'291/760' combination in order to compensate for a smaller screen on the display device present on the portable device or allow the 3-dimensional character controlled by the respective player to be viewed by the player operating said character.

Regarding at least claim **86**, the claimed manually controlled indicator (Figure 12 Elm. LM & Fig 15) is taught by the 760' reference.

Regarding at least claim **94**, and **111** the inclusion of a third game program implemented on the second processor as presently claimed defines only a second game program and has been treated as such for the purposes of this action. Specifically there is no teaching present, nor necessity of function that might prevent the second game program from being identical to the third game program and vise versa. Other obvious variants would also relate to claim **111** where there is no clear distinction from the first and third data.

Regarding at least claims **95**, and **167**, 291' and 028' recognize the use of a plurality of discrete display devices in figures 1 and 2 respectively. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the multiple player discrete displays of 028' and 291' with the game of 760' in order to allow multiple players to play concurrently.

Regarding at least claims **80-82, 96-103 and 120-126**, the alteration of polygon data is understood to be the movement of a player character (706' figs 12 & 13), while the predetermined actions that cause movement in a game program include a player character clutching his sword attacking a non-player object as demonstrated in claims **97, 99, 100** and figures 12-15 of 706'. The directed movement also shown in figure 14 of 760' would correspond to a player contacting a predetermined area through the player controlled movement of their character either towards or away from an object in the game world. As presented the non-player object represents a player controlled object as so claimed in claim **82** in so much that the player has the control to target and attack it as shown in the cited figures. As the presented character is under player control, as are the parts that constitute this character as claimed in claims **121-123**. Figure 12 of 706' shows a character "like a human" but in reality is an "inanimate" creation of a "plurality" of polygon "parts" that is in fact "non-human" as so claimed in claims **124-126**.

Regarding at least claims **104-107, 135, 136, 156, 164, and 165** the 291' and 028' references teach manual input devices associated with their portable game system (291' Elm 402 & 028' Elm 10). The input devices are referred to as player controls and the signals received from the manipulation of these devices are used to allow the player to input information into the game system as demonstrated at least in the previously cited figures and 028' paragraph 108.

The presented manual input device in this case is a touch screen, a touch sensor, or the manual operation of a control device as no stated problem or unexpected result is obtained through the utilization of these input devices opposed to the devices of the prior art presented, the choice of input device is deemed a matter of design choice. It would have been obvious to one of ordinary skill in the art at the time of invention to utilize alternative input devices such as a touch screen or a touch sensor to avoid repetitive stress injury or allow a greater variety of game inputs.

Regarding at least claims **108** and **109** the 291'/760'/028' system is silent as to the incorporation of preview and replay features. However it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate a replay feature in order to remind himself or herself of the story line or alternatively, a preview function in order to judge a possible consequence to an action in a game prior to taking the action.

Regarding at least claim **110** as the data displayed is received from the home game system the claimed as set forth in claim **76**, the modification of the polygon data would serve to be an implicit feature.

Regarding at least claims **112-115**, **151**, and **160** the 760' reference displays a full character in figures 12 and 13 comprising many parts of their body including a hand, a head located near the hand and articulated fingers attached to the hand. Moreover the change in view and movement sequence shown in figures 12 and 13 shows the

Art Unit: 3714

alteration of characters shape, this by definition would require the alteration of shape in at least one of the portions forming the over all characters shape and hence the polygon data defining the character.

Regarding at least claims **127-130, 140, 142-144, and 168-169** the 760' reference teaches the use of external RAM and ROM devices (ABS) providing a semiconductor storage area (20, 50) as so claimed. The 028' reference provides for the use of an optically coded disk and reader (30, 32) as so claimed. It would have been obvious to one of ordinary skill in the art at the time of invention to utilize the memory medium most easily produced and compatible with the intended platform.

Regarding at least claims **90, 132-134, 147, and 155-159**, the claimed first character and second character is considered to be the same character in claims **155-158** as supported by claim **159** presently. In similar fashion the first or second controller may contain multiple inputs as taught by 028' and the 291' references above, and per claim **156** serve to control the first and second character simultaneously. Further limitations present in this grouping have been previously addressed in this rejection and will not be repeated here.

Regarding at least claim **161**, the manually operated control for the movement of a 3-dimensional character in a 3-dimensional world is considered to be implicitly required for operation as explained in 760' Column 1 lines 23-26.

Claims **92, 93, 137, 138, 170, and 171** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al (US 6,238,291) in view of Miyamoto et al (US 6,626,760) in further view of Miyamoto et al (US 2002/0165028) and yet in further view of Ng (US 5,971,855) herein referred to as 291', 760', 028' and Ng' respectively.

Regarding at least claims **92, 93, 170, and 171**, the combination of 291'/760'/028' is silent regarding the utilization of the claimed system between two mobile units with discrete inputs. However in a related application NG teaches allowing players to compete against one another through the use of two connected mobile systems (Ng, Figure 1) NG teaches also teaches the presentation of both fighters involved in the fight during the combat mode (Col 7:42-65) on the mobile game systems with LCD displays (501).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of 291'/760'/028' to allow multiple mobile units to link together as taught by Ng for game play without a home system in order to allow the game to be operated in a variety of locations.

Alternatively as the fighters are displayed together only during combat the fighter from game system A must at some point appear on and leave the screen of game system B as so claimed in at least claims **137, and 138**. It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the displaying of the arrival and departure of characters on respective game screen as taught by Ng in to the

Art Unit: 3714

invention the system of 291'/760'/028' to indicating when a character was in close enough proximity to another separate character to perform an action on said character.

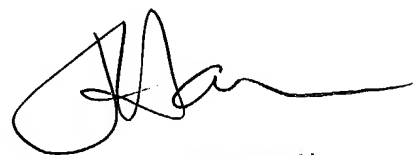
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM



JESSICA HARRISON  
PRIMARY EXAMINER